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NATIONAL TRADE POLICY AGENDA
CALENDAR YEAR 1989

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE NATIONAL TRADE POLICY AGENDA FOR CALENDAR YEAR 1989; AND AN ADDENDUM TO THE TWENTY-NINTH ANNUAL REPORT ON THE TRADE AGREEMENTS PROGRAM, 1988, THAT WAS SENT TO THE CONGRESS ON JANUARY 3, 1989, PURSUANT TO PUBLIC LAW 100-418, SEC. 1641

MARCH 1, 1989.—Message and accompanying papers referred to the Committee on Ways and Means and ordered to be printed

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To the Congress of the United States:

In accordance with Section 1641 of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100–418; 102 Stat. 1271), I hereby transmit the National Trade Policy Agenda for calendar year 1989; and an addendum to the Twenty-ninth Annual Report on the Trade Agreements Program, 1988, that was sent to the Congress on January 3, 1989. The addendum includes a statement on negotiations in the General Agreement on Tariffs and Trade (GATT) regarding an import fee for trade adjustment as required by Section 1428 of that Act.

GEORGE BUSH.

THE WHITE HOUSE, *February 28, 1989.*

THE PRESIDENT'S TRADE POLICY AGENDA

March 1, 1989

NATIONAL TRADE POLICY AGENDA

March 1, 1989

As required by section 163(a)(1)(B) of the Trade Act of 1974, as amended, the President establishes the following national trade policy agenda for calendar year 1989. While the Administration necessarily reserves the right to modify its trade policy objectives and priorities based upon changing circumstances, the following agenda outlines our objectives and priorities at this time, based upon current developments.

Experience shows that an open trading system benefits all countries, importers as well as exporters. Much as a nation's exporters benefit from access to foreign markets, its importers, producers and consumers benefit from the opportunity to purchase foreign goods. The Administration's overall trade policy objective is to expand the economic benefits derived from this increasingly interdependent trading system by obtaining the maximum range of overseas market openings for American manufactured goods, agricultural products and services industries. This requires that we strengthen the multilateral trading system, firmly negotiate the opening of foreign markets, eliminate foreign countries' unfair trade practices, enhance intellectual property protection and remove trade-distorting investment practices.

To achieve these objectives, the Administration will utilize the negotiating tools provided in the Omnibus Trade and Competitiveness Act of 1988 and all the rights provided in the international trade agreements to which the United States is a party. Our strategic goal is to open markets, not close them; to create an ever-expanding international trading system based upon equitable and enforceable rules. We prefer to use multilateral negotiations to achieve our objectives, but we also will engage in bilateral efforts and take selective unilateral actions where these can be effective and are necessary for opening foreign markets to U.S. goods and services. While pursuing this active agenda with our trading partners, we will work equally hard to ensure the openness of the U.S. economy to fairly traded goods and services. This openness is essential to promote our own competitiveness and the welfare of the American people.

American exports and imports are, of course, often influenced by developments in U.S. domestic and international economic policy. The aggregate U.S. trade deficit must be understood against this background.

The Administration will continue to address the factors that make the United States a net capital importer, thereby guaranteeing a U.S. trade deficit. The United States needs to make further progress in addressing the shortfall between domestic savings and investment.

As domestic investment rose during the 1980s and federal budget deficits remained high, personal and business savings simply could not supply the need for capital. The United States has made substantial progress in reducing the federal budget deficit although it remains excessively high. Efforts to control federal spending and bring the federal budget into balance will be continued. In addition, the United States will explore ways to encourage private saving and domestic capital formation to complement efforts to eliminate the budget deficit.

In turn, America's major trading partners must continue complementary macroeconomic policies, relying more on domestic demand, rather than foreign demand, to stimulate their growth. The United States, in conjunction with its major trading partners, has developed a process of economic policy coordination to promote sustained global growth, with low inflation and reduced external imbalances in the context of greater stability of exchange rates.

Substantial progress has been made under this process in recent years. Surplus and deficit nations are implementing policies to facilitate adjustment by assuring strong domestic growth which encourages imports in surplus countries and by assuring that resources are freed for the export sector in deficit countries.

In the United States, domestic demand grew more slowly than output in 1987 and 1988, a pattern expected to continue this year. As a result, the U.S. trade deficit declined by over $30 billion in 1988, and further improvement is expected in 1989. The U.S. budget deficit also is declining sharply. Meanwhile, Japan and Germany have adopted important policy measures to promote strengthened domestic demand growth and reduced reliance on export-led growth.

Trade policy also must be concerned with issues affecting the fundamental competitiveness of the traded goods and services sectors. On policy issues such as education, deregulation, saving and investment incentives, antitrust policy, and adjustment to economic change, the Administration will assure that U.S. economic interests are taken fully into account. In this regard, the Vice President will be chairing a new Task Force on Competitiveness.

Against this broad economic backdrop the nation's trade policy is implemented. Our trade policy agenda for the coming year will, in particular, emphasize seven objectives:

1. Expand and strengthen the international trading system by seeking substantial progress in the Uruguay Round of multilateral trade negotiations

The Administration has no higher trade priority in 1989 than to seek rapid progress in the Uruguay Round of Multilateral Trade Negotiations. Section 1101 of the Omnibus Trade and Competitiveness Act of 1988 sets out the objectives for these negotiations. The diversity of issues being negotiated in the Uruguay Round--ranging from traditional topics such as tariffs and agriculture to newer issues such as services, trade-related intellectual property rights and investment--provides a multilateral setting for the United States to complement and reinforce the priorities of its trade policy agenda.

The Uruguay Round negotiations are the eighth round of multilateral negotiations conducted under the auspices of the General Agreement on Tariffs and Trade (GATT). They were launched in Punta del Este, Uruguay in September 1986 and are scheduled to conclude in 1990. The United States was a prime mover in assuring that these negotiations were initiated and remains vigilant in its efforts to assure that they result in a strengthened international trading system that creates new opportunities to expand trade and achieve economic growth.

The Administration's objectives in the Uruguay Round include:

- achieving multilateral agricultural policy reform;
- expanding the scope of international rules to include trade in services, protection of intellectual property rights and trade-related investment measures;
- improving market access for U.S. exports of goods and services through the elimination of tariff and non-tariff barriers to trade; and
- strengthening and reinforcing the credibility of the international trading system and GATT by integrating developing countries into the trading system, addressing the problem of subsidies and improving the rules pertaining to import relief.

In the first part of 1989, attention will be focused on the April 5-6 meeting of the Trade Negotiations Committee (TNC). This meeting is expected to conclude the Mid-Term Review, the results of which were put "on hold" until agreement could be reached on negotiating frameworks for agriculture, trade-related intellectual property, safeguards and textiles.

Reaching agreement by April on Mid-Term Review texts in these four areas will not be easy. In agriculture, the United States

will be under intense pressure to accept short-term reforms without reaching substantive agreement on the scope of long-term multilateral reform in agriculture. U.S. negotiators have made it clear that acceptability and implementation of short-term measures will only be possible if an agreement on a long-term framework is possible.

From the United States' standpoint, the long-term framework should permit negotiation of commitments to: 1) convert all non-tariff measures to fixed tariff rates (tariffication) and then phase these tariffs out over time; 2) phase out agricultural subsidies that directly or indirectly affect trade; and 3) work together to harmonize health and sanitary measures with appropriate international standards. Post-April, negotiations will have to turn to the difficult task of negotiating the details of long-term agricultural reform by addressing import access, domestic supports and export subsidies. The United States intends to pursue agricultural reform on all these fronts.

For trade-related intellectual property, reaching agreement on a Mid-Term text will be less difficult than the complex negotiations ahead in the Uruguay Round. The United States intends to pursue vigorously its negotiating proposals for a comprehensive substantive GATT agreement that includes: 1) the elaboration of adequate substantive standards; 2) obligations for effective enforcement of these standards internally and at the border; 3) an effective dispute settlement mechanism; and 4) the inclusion of GATT concepts such as transparency.

In the Uruguay Round, the United States has continued to seek more comprehensive GATT rules on "safeguards." The impasse at the Mid-Term Review on this issue reflected key differences in substance that will have to be negotiated over the remainder of the Uruguay Round. The issue at the heart of the negotiations is lack of agreement over selectivity versus most-favored-nation (MFN) application of safeguard actions. Agreement to negotiate a resolution of this question should form the basis for agreement in April on a negotiating framework.

Briefly stated, the United States has generally supported the notion that safeguard actions should be taken on an MFN basis but some way must be found to handle the proliferation of selective grey-area measures taken outside GATT rules. Most developing countries take the position that safeguard actions must be taken on a strict MFN basis to prevent them from being singled out for "selective" measures.

A draft agreement on safeguards will be developed in 1989. The United States is still developing its position on this key area in the negotiations, which has implications for a number of negotiating areas ranging from textiles to agriculture. The United States has been actively consulting with the Congression-

ally mandated private sector advisors on the key issues to be addressed in this difficult and complex area of the negotiations. For example, a questionnaire was sent to all private sector advisors on elements in the negotiations. We expect responses by March 15.

Textiles was the fourth issue where it was not possible to reach an agreement at the Mid-Term Review. Discussions are continuing on the negotiating framework for textiles with a view to reaching agreement by the April 1989 TNC meeting. The United States does not intend to accept positions for April that prejudge in any way the outcome of the Uruguay Round negotiations. The negotiating objective as set out in the Punta del Este Declaration provides that:

> "Negotiations in the area of textiles and clothing shall aim to formulate modalities that would permit the eventual integration of this sector into GATT on the basis of strengthened GATT rules and disciplines, thereby also contributing to the objective of further liberalization of trade."

Textiles, a difficult and highly politicized issue for most Uruguay Round participants, will require extensive technical work post-April as negotiatcrs attempt to achieve the objectives set out by Ministers.

In the other 11 negotiating areas for which agreements were reached before or at the Mid-Term Review, work in support of the negotiations is progressing under the auspices of the interagency Trade Policy Staff Committee structure.

In certain areas, the work is highly technical. For example, in market access, negotiators are at work identifying specific line item tariff and non-tariff measures that will form the basis of a U.S. request to begin the formal negotiations. As agreed at the Mid-Term Review, these negotiations are to begin by July 1 of this year. To support this effort, data bases are being developed and information collected from advisors and U.S. missions abroad. The U.S. International Trade Commission and the Trade Policy Staff Committee will be holding hearings throughout the spring regarding tariff issues in market access. With respect to non-tariff measures, the interagency committee is also developing possible negotiating proposals to address additional rules to limit the use of non-tariff barriers.

Services and trade-related investment measures (TRIMS) are two key areas for the United States. Domestically, work on services issues has turned towards identifying the potential coverage of an agreement and U.S. negotiating parameters. The Mid-Term Review agreement in services calls for a draft framework agreement by the end of the year. U.S. negotiators are working closely with our advisors on negotiating aspects for the frame-

work so that the United States will be able to meet this deadline.

For TRIMs, negotiators recently put forward a paper clarifying the trade effects of TRIMs and their relationship to GATT Articles. This is a prelude to the negotiating proposal we hope to develop in consultation with the U.S. private sector. The United States intends to table a negotiating proposal in this group in order to carry the work forward on achieving disciplines in TRIMS.

Subsidies is another difficult but necessary issue to resolve in the negotiations. The negotiating framework agreed at the Mid-Term Review is a variation on the "traffic light" approach originally put forward by the United States in the early stages of the Tokyo Round and draws from an earlier Swiss Uruguay Round proposal. It would classify subsidies into three categories: prohibited (red); permitted but actionable or countervailable (yellow); and permitted (green). It also covers such topics as improved remedies, strengthened dispute settlement and notifications. The framework seeks to provide a comprehensive structure to guide the negotiations.

The United States agreed to the framework in the interests of allowing the negotiations to proceed because it supports strengthened subsidies disciplines and remedies. We do have concerns and reservations about the framework's provisions relating to subsidies definitions, countervailing duty procedures and permitted subsidies. Negotiations in the next two years will be difficult and contentious as participants have very different views on the need for increased discipline and the role of countervailing duties. Post-April, we expect that countries will be prepared to pursue the framework and the very difficult and technical issues it raises. The Administration has maintained close contact with Congressional representatives in outlining a strategy for this negotiating group. We expect these contacts to increase as the negotiations intensify.

Another challenge for the Administration will be to move the negotiations forward to meet the 1990 completion timetable. By year's end, the United States will submit or elaborate on negotiating proposals to advance U.S. objectives in all the key areas of the Round. This will be the final push in refining the overall U.S. negotiating strategy and preparing the necessary technical work to support the Round. Consultations with the Congress and the private sector regarding strategies and proposals for the negotiations are on-going.

No general legislation is required until we conclude the Uruguay Round, since the Omnibus Trade and Competitiveness Act provides broad trade agreements authority in section 1102. However, from time to time, legislation may be required to bring the United States into conformity with GATT panel reports, such as those

relating to the U.S. Superfund and customs user fee. Timely enactment of appropriate legislation is important to maintain the credibility and effectiveness of the United States in the Uruguay Round negotiations.

2. Broaden access to foreign markets, improve the protection of intellectual property and eliminate or offset foreign unfair trade practices

This Administration is committed to lowering barriers to the export of U.S. goods and services. It will pursue vigorously and responsibly the elimination of any unfair trade practices by our trading partners through strict administration of the various U.S. trade remedies, bilateral negotiations and any other appropriate means. These efforts will include (but not be limited to):

- negotiation of bilateral agreements to remove formal and informal barriers to the export of U.S. goods and services in key overseas markets;
- effective use of section 301 of the Trade Act of 1974, as amended in 1988 (including the so-called "Super 301" and intellectual property provisions);
- strict enforcement of the antidumping and countervailing duty laws, as amended in 1988;
- prevention of, or appropriate redress in response to, the infringement of intellectual property rights by imports, including action under section 337 of the Tariff Act of 1930, as amended in 1988;
- initiatives to monitor the European Community's 1992 internal integration project to ensure that the process of lowering barriers within Europe does not lead to the erection of new barriers to those outside Europe or disadvantage U.S. firms operating in Europe;
- implementation of the Telecommunications Trade Act of 1988;
- implementation of the Buy American Act of 1988;
- use of the Export Enhancement Program and other agricultural programs, as appropriate, to combat the displacement of U.S. agricultural exports from foreign markets as a result of subsidized foreign competition;
- initiatives to improve the equity in the international trading environment for key U.S. industrial products, including semiconductors and commercial aircraft;

- development of an international consensus on eliminating market distorting practices in the global steel market; and

- implementation of the Agricultural Act of 1956 to ensure that potential surges of textile and apparel imports do not disrupt the U.S. market through consultations, as appropriate and consistent with our rights under the Multifiber Arrangement.

3. Implement the Free Trade Agreements with Canada and Israel

In light of the special economic and other relationships the United States enjoys with Canada and Israel, free trade agreements with both countries entered into force in 1989 and 1985, respectively. The Administration needs to implement these agreements in the manner intended, to ensure that both sides reap the benefits for which they negotiated. This includes resort to the dispute settlement procedures provided in each agreement, as appropriate.

The agreement with Canada inaugurates a new era in our economic relations with our largest trading partner. The Administration must not only ensure implementation of the provisions already agreed, but continue negotiations in a number of important areas, including subsidies and dumping, rules of origin in the automotive sector, investment, services, the protection of intellectual property and government procurement practices.

In close consultation with the Congress and all appropriate advisory committees, the Administration will pursue these objectives under the authority provided by the United States-Canada Free-Trade Agreement Implementation Act of 1988. No further major legislation is currently needed.

4. Promote U.S. exports

Through the U.S. and Foreign Commercial Service, the Foreign Agricultural Service, the Export-Import Bank and other means, the Administration will promote U.S. exports of goods and services. For this purpose, the Administration's means will include:

- administration of the amendments to the Foreign Corrupt Practices Act, effected by the Omnibus Trade and Competitiveness Act of 1988;

- implementation of the Export Trading Company Act, as amended in 1988;

- creation of the National Trade Data Bank, as required by the Omnibus Trade and Competitiveness Act of 1988;

- o effective implementation of Title II of the Omnibus Trade and Competitiveness Act of 1988;

- o support of U.S. exports by the Export-Import Bank; and

- o consideration of ways to provide adequate and competitive financing for U.S. exports, such as negotiations among OECD governments to reduce credit subsidies further.

5. Appropriately use temporary relief for injury caused by fairly traded goods

The Administration will implement its responsibilities under U.S. trade remedies (sections 201 and 406 of the Trade Act of 1974, as amended) that authorize the President to afford temporary relief to U.S. producers injured by fairly traded imports under certain circumstances. Temporary relief in such circumstances is authorized by the GATT, provided the United States provides compensatory trade benefits to affected trading partners.

No further legislation is required with respect to this priority.

6. Eliminate trade-restrictive practices of developing countries while helping their economies to develop further

The Adminstration believes that sound, market-oriented policies by developing countries to attract investment and promote trade competitiveness are the surest route to economic development. We will continue to encourage the International Monetary Fund and World Bank to emphasize market-oriented reforms, including trade policy reforms, in their economic adjustment programs. This policy is being promoted strongly by the U.S. bilateral economic assistance program.

The Administration will promote the fuller integration of developing countries into the world trading system, principally through the Uruguay Round multilateral trade negotiations. Our objective in this respect does not include the provision of substantive differential treatment for developing countries; to the contrary, the Administration believes that, generally, developing countries should be subject to the same obligations as developed countries, but with additional time for phasing in any new such obligations.

The Administration also establishes as a priority the continuation of programs and policies designed to promote economic development within developing countries, including:

- o duty-free treatment for imports of eligible products of beneficiary countries under the Generalized System of Preferences;

- o specified treatment of imports of designated products of beneficiary countries under the Caribbean Basin Initiative (CBI) program;

- o the enhancement of trade and investment opportunities between the United States and Mexico under the 1987 "Framework Understanding," which provides for consultations on issues including the protection of intellectual property, services and investment; and

- o support for continued trade policy and other economic reforms in developing countries, including those participating in lending programs with the international financial institutions.

Legislation will likely be needed with respect to any expansion of the CBI program beyond limits authorized by the Caribbean Basin Economic Recovery Act of 1983. No other new legislation is currently anticipated.

7. Ensure appropriate consideration of trade objectives in any conflicts between trade and national security interests

The Administration is irrevocably committed, as a matter of first importance, to a free and fair trade policy designed to enhance the U.S. national economic interest. From time to time, however, our trade policy interests may come into conflict with other fundamental policies of the Administration, such as national security. The Administration will give high priority to the commercial and economic implications of foreign policy decisions and will seek to reconcile any conflicts appropriately, as through:

- o implementation of the export control program, as amended in the Omnibus Trade and Competitiveness Act of 1988;

- o administration of section 721 of the Defense Production Act of 1950, as added by the Omnibus Trade and Competitiveness Act of 1988, concerning authority to review on national security grounds certain mergers, acquisitions and takeovers by or with foreign persons;

- o administration of section 232 of the Tariff Act of 1930, as amended;

- o use of procedures and bodies established by law, regulation or order, including the National Critical Materials Council, Competitiveness Policy Council, National Advisory Committee on Semiconductors, and National Commission on Superconductivity; and

- particular attention and consideration to trade issues involving high technology goods and services and the protection of intellectual property rights vital to such high technology goods.

The Administration does not anticipate a need for any further legislation in order to achieve this priority.

Consultations in the development and application of this agenda

This national trade policy agenda was developed in the closest possible consultation with the Congress and both private sector and intergovernmental advisory committees, under the time constraints dictated by the Omnibus Trade and Competitiveness Act of 1988. Likewise, it will be applied throughout 1989 in equally close consultation with the Congress and advisory committees.

In view of the Congress' constitutional authority to regulate foreign commerce and the President's constitutional authority to conduct the foreign affairs of the United States, an effective American trade policy requires a meaningful partnership between the Congress and the Executive. It is the hope and intention of the Administration to serve as just such a partner with the Congress.

Such consultations do not ensure complete harmony between these two branches of government, any more than harmony among the various interested Executive Branch agencies can be assured. Conflicts are inevitable, since reasonable people can and will differ as to how best to pursue the U.S. national economic interest. But the Administration hopes to minimize such conflicts and to ensure the most informed possible decisionmaking in the trade policy area by working hand-in-glove with both the Congress and the advisory committees established under law.

ANNUAL REPORT OF THE
PRESIDENT OF THE UNITED STATES
ON THE TRADE AGREEMENTS PROGRAM

Twenty-Ninth Issue

Addendum to report sent to
Congress on January 3, 1989

As required under section 1641 of the
Omnibus Trade and Competitiveness Act of 1988

CHAPTER II

NEGOTIATIONS TO LIBERALIZE WORLD TRADE

URUGUAY ROUND

The Montreal Mid-Term Review

On December 5-9, 1988 the Trade Negotiation Committee (TNC) met at the ministerial level in Montreal for a mid-term review of progress in the 15 groups making up the Uruguay Round multilateral trade negotiations.

Substantial results were achieved in 11 of the 15 groups that met U.S. objectives and ensured that the pace of the talks proceeds on course. Agreements were not reached in four areas: agriculture, trade-related aspects of intellectual property rights including trade in counterfeit goods, safeguards and textiles. As a result, ministers agreed to put the results of the 11 most successful areas "on hold". The ministers charged the Director General of the General Agreement on Tariffs and Trade (GATT), as TNC Chairman, with responsibility for breaking the deadlock in the four outstanding issues.

A TNC meeting of senior officials will be held in Geneva on April 5-6, 1989 to conclude the mid-term review. Mindful that ministers in Montreal reaffirmed their determination to complete the Uruguay Round as planned in 1990, the United States is vigorously pursuing its objectives in the negotiations. Work on all aspects of the talks is proceeding internationally and domestically. U.S. negotiating teams are consulting closely with Congress and the private sector to develop negotiating proposals and strategies.

The following section summarizes the status of each negotiating group.

Agriculture

Agriculture is the key to a successful Uruguay Round. A central U.S. goal is to strengthen GATT disciplines in agricultural trade.

To support this objective the United States proposed a "Framework for Agricultural Reform" that elaborates elements for multilateral agricultural policy reform. The U.S. proposal would commit all parties to: 1) converting all nontariff measures to fixed tariff rates and then phasing these tariffs out over time; 2) phasing out all agricultural subsidies that directly or indirectly distort trade; and 3) working together to harmonize health and sanitary measures with appropriate international standards.

Although there was some narrowing of positions, fundamental historical differences of approach to agriculture among GATT members could not be overcome at Montreal. By agreeing to hold another TNC meeting in early April 1989 and placing all agreements achieved in Montreal in abeyance until then, additional pressure has been created that may generate the political will needed to resolve this matter.

Intellectual Property Rights (IPR)

The U.S. objective in Montreal was to reach a consensus on a framework for a GATT intellectual property agreement including all of the necessary elements for progress in this area. These elements are: the elaboration of adequate substantive standards, obligations for effective enforcement of these standards internally and at the border, an effective dispute settlement mechanism and the inclusion of GATT concepts such as transparency.

By the mid-term review, differences among countries over a commitment to negotiate on substantive standards and the other agreement elements were significantly narrowed. The United States will continue to seek an acceptable consensus for the political commitment a negotiating framework requires. The United States will also continue its substantive work in the intellectual property group. Finally, the United States will continue informal meetings with those governments committed to negotiating a multilateral agreement in the GATT to provide adequate and effective trade-related intellectual property protection.

Safeguards

In the Uruguay Round the United States has continued to seek more comprehensive GATT rules on "safeguards" provisions. Such provisions authorize importing countries to suspend, withdraw or modify tariff concessions if imports cause or threaten to cause serious injury to domestic producers.

Progress has been slow, however, largely due to the lack of agreement on whether safeguard actions should be applied on a selective or most-favored-nation (MFN) basis. The United States generally maintains safeguard actions should be taken on an MFN basis but feels some way must be found to handle the proliferation of selective grey-area measures taken outside GATT rules. Most developing countries, on the other hand, maintain safeguard actions must be taken on a strict MFN basis to prevent them from being singled out for "selective" measures.

At the mid-term review India sought to have this key issue singled out. Other nations were amenable to proceeding with a work program that would include all the aspects needed to consider a safeguards agreement. Specifically, India sought agreement that: 1) safeguard actions should be limited in duration and nondiscriminatory; and 2) grey-area measures which result in selective application should be proscribed.

Ministers failed to agree on these points. Work will continue on establishing a framework for a safeguards negotiation.

Textiles

Textiles was the fourth issue lacking an agreement in Montreal. Discussions will continue on the negotiating framework for textiles so as to reach agreement by the April 1989 TNC meeting. Papers have so far been formally submitted for discussion by Pakistan, Indonesia (on behalf of several developing countries), Canada, the European Community and the Nordic countries. The United States has submitted for information a copy of the U.S. Department of Commerce publication "Regulations Affecting U.S. Textile/Apparel Exports."

Services

The mid-term review agreement on services is one of the most important Montreal results. It should accelerate the negotiation of a multilateral GATT agreement on trade in services.

The Montreal agreement establishes a work program and timetable that should lead to rapid progress in 1989. It breaks a procedural logjam on how to begin negotiating sectoral coverage of a framework agreement. It elaborates on key issues for the negotiation including national treatment, transparency, nondiscrimination/MFN and market access. The market access language allows for the provision of providing services according to a supplier's preferred mode of delivery, which would include establishment.

Consistent with longstanding U.S. views, the agreement does not contain provisions that expressly authorize sectoral reciprocity. In addition, the text provides language that will encourage wide participation in a services agreement by developing countries without establishing a right to special and differential treatment.

Functioning of the GATT System (FOGS)

This negotiating group is charged with restoring and strengthening the operation of the GATT as an institution. In Montreal this

goal was largely achieved. Participants agreed to an early implementation (following the TNC meeting) of a Trade Policy Review Mechanism (TPRM) which would regularly examine an individual contracting parties' government policies and practices having a bearing on the international trading environment.

In addition, ministers in Montreal agreed the GATT's decision-making process would be improved if the Contracting Parties met at the ministerial level not less than every two years. The United States also believes the GATT Director General, in consultation with his counterparts in the International Monetary Fund (IMF) and the International Bank for Reconstruction and Development (IBRD), should begin to explore the practical possibilities for enhancing their relationship.

Dispute Settlement

As the mid-term review approached, there was a consensus on measures to streamline the dispute settlement process. This would be through: 1) time limits on stages in the process; 2) provision for a speedy, flexible arbitration mechanism as an alternative to the normal dispute settlement process; 3) expedited procedures for selecting panelists and their mandate or terms of reference; 4) harmonization of proceedings where more than one country is a complainant; and 5) the GATT Council's enhanced surveillance of the implementation of adopted panel reports.

Ministers embraced these measures in Montreal. They also resolved differences on two others: an automatic right to a panel unless the GATT Council reaches a consensus to act otherwise; and an overall 15-month deadline for completing a dispute settlement.

An important U.S. mid-term review goal was to reach agreement on implementing on a provisional basis any concrete dispute settlement process improvements reached in Montreal. This goal was achieved.

However, implementation will be deferred until after the TNC meeting in early April 1989. Negotiations will continue for the remainder of the Uruguay Round to seek agreement on additional dispute settlement process improvements.

Tariffs

Ministers in Montreal agreed substantive negotiations on tariffs would begin no later than July 1, 1989. Before that time trade and tariff data is to be exchanged. Negotiators will also establish detailed procedures needed to conduct the negotiations. Participants established a target for overall tariff reductions

that was at least as ambitious as that the Tokyo Round formula participants achieved.

The United States accepted this approach because it provides flexibility and permits conducting tariff negotiations on a request/offer basis while others use approaches of their choosing. This approach will also let the United States pursue an integrated, item-specific tariff and nontariff measure negotiation. This will ensure the Uruguay Round results in real market access for individual products of interest to U.S. exporters.

Tropical Products

Given the importance of tropical products trade to many developing countries, it was agreed these products should receive special attention when the Uruguay Round was launched. In Montreal the United States put forward a list of 49 tropical products on which it is prepared to reduce tariffs by 25 percent as its contribution to a multilateral package of results. Implementation of this package depends on an acceptable outcome on agriculture at the April TNC meeting.

In the course of the round, the United States also expects to receive concessions or contributions in market access or other negotiating areas of U.S. interest from participants benefiting from U.S. liberalization of tropical product tariffs.

Since a large number of tropical products are agricultural in nature, the United States maintains that agriculture and tropical product talks should be linked. The United States also feels most nations, not just developed countries, are responsible for achieving liberalized trade in tropical products.

Trade-Related Investment Measures (TRIMs)

As a result of the mid-term review, negotiators were directed to: 1) continue their examination of trade effects and the relationship of GATT Articles to TRIMs; 2) consider where additional GATT provisions may be needed to discipline TRIMs and their trade effects; and 3) consider the development aspects of TRIMs.

Key questions that must be addressed include which disciplines should be applied to TRIMs and how developing countries--the principal users of TRIMs--can be induced to participate in an agreement with strong disciplines. A U.S. negotiating proposal should be tabled during the first half of 1989.

Nontariff Measures

Ministers in Montreal agreed the reduction or elimination of nontariff measures by all participants is a central element of a successful outcome of the Uruguay Round and in achieving substantially improved market access. Negotiators may pursue various negotiating approaches, preferring those which achieve the widest participation and broadest possible liberalization.

Ministers also agreed on a work program for the negotiating group. Scheduled to start detailed negotiations by June 1989, the work program will allow nontariff measures and tariff negotiations to proceed on an integrated basis.

MTN Agreements and Arrangements (Tokyo Round Codes)

Ministers in Punta del Este had directed the Negotiating Group on MTN Agreements and Arrangements to "improve, clarify or expand as appropriate agreements and arrangements negotiated in the Tokyo Round of Multilateral Trade Negotiations." Thus far the negotiating group has concentrated on the Agreement on Technical Barriers to Trade (Standards), the Agreement on Import Licensing and the Agreement on Antidumping. The United States has submitted proposals on each of these agreements.

In Montreal ministers summarized these negotiations, outlined areas of agreement and urged the group to expedite the negotiating process.

Subsidies and Countervailing Measures

A negotiating framework to guide the rest of the negotiations in this group was reached after a difficult negotiation held before the Montreal meeting. Ministers at the mid-term review "took note" of the agreement. It would classify subsidies into three categories: prohibited; permitted but actionable and countervailable; and permitted. The agreement also covers topics like improved remedies, strengthened dispute settlement and notifications. The framework seeks to provide a comprehensive structure to guide the negotiations.

The United States agreed to the framework in the interests of proceeding with the negotiations. The United States supports the concept of strengthened subsidies disciplines and remedies and believes that the framework covers all issues raised in its proposal. The United States has serious reservations, however, about the framework's provisions relating to subsidies definitions, countervailing duty procedures and permitted subsidies.

GATT Articles

In this group key U.S. issues include reforming both provisions that let developing countries restrict trade for balance of payments reasons (Article XVIII) and state trading (Article XVII) provisions. Reform of lax balance of payments discipline is critical for integrating developing countries into trading system rules.

The group has also taken up issues other countries identified including free trade areas (Article XXIV), national security (Article XXI) and renegotiating tariff concessions (Article XXVIII). In Montreal the ministers highlighted the work done in this group so far. They called for the participants to submit further negotiating proposals as soon as possible but preferably no later than December 31, 1989.

Natural Resource-Based Products

Ministers agreed to continue discussing market access problems in natural resource-based products. Discussion has focused on trade practices in nonferrous metals, forest products and fisheries.

The United States has suggested the group also discuss energy products as well as practices that confer an artificial trade advantage. These include natural resource subsidies, two-tier pricing, restrictive government practices and related export restrictions. Ministers also agreed to keep other negotiating groups advised of ways to improve GATT discipline on natural resource-based products.

Standstill and Rollback

In Montreal ministers reaffirmed their political commitment to a standstill and rollback of GATT-illegal trade measures, affirmed their determination to ensure that these undertakings are met and directed the TNC to carry out a substantive evaluation of implementing standstill and rollback at its July 1989 meeting.

The text also emphasizes the need for GATT members to withdraw all measures contrary to the standstill commitment. Finally, the text invites GATT members to examine actions they should take to implement their rollback commitments, whether or not these measures have been notified.

OTHER GATT ACTIVITIES

Governing Groups and Committees

The United States signed the Harmonized System Convention on October 31, 1988 and U.S. implementation took effect January 1, 1989.

GATT Negotiations of an Import Fee for Trade Adjustment

The United States will shortly initiate GATT negotiations, as well as negotiations with Canada and Israel, to allow for the imposition of a small import fee for trade adjustment purposes. The Administration's objective in these negotiations is to seek approval from GATT contracting parties and U.S. free trade agreement partners to impose a 0.15 percent fee on all imports to fund trade adjustment programs. Such negotiations are required by section 1428 of the Trade and Competitiveness Act of 1988.

The United States plans to pursue negotiations on the small import fee in either the Uruguay Round Negotiating Group on GATT Articles or the group on Safeguards. In the Negotiating Group on GATT Articles, GATT contracting parties are considering proposals to clarify, strengthen and update current GATT provisions. A proposal to explicitly provide for the imposition of a small import fee for adjustment purposes would thus fall under the broad mandate of this group. Alternatively, GATT approval of the fee could be addressed in the Negotiating Group on Safeguards. This group is already discussing the issue of trade adjustment and issues associated with the funding of adjustment programs would be a logical extension of this debate.

Over the past several months the United States Ambassador to the GATT has held informal consultations with the GATT Secretariat and foreign delegations to seek their views on this initiative. To date, these consultations have not been conclusive.

Worker Rights

The United States has sought establishment of a GATT program on the relationship of internationally recognized worker rights and international trade. Congress has endorsed this effort. The Omnibus Trade and Competitiveness Act of 1988 lists among U.S. negotiating objectives for the Uruguay Round "to promote respect for worker rights" and "secure a review of the relationship of worker rights to GATT articles."

The United States has not been successful in attempts to have the GATT set up a working or study group, separate from the Uruguay Round, to examine initially the relationship between internationally

recognized labor standards and international trade. The United States will continue to press for GATT consideration of worker rights.

Organization for Economic Cooperation and Development (OECD)

From Uruguay Round's start, as a result of a ministerial level mandate, the OECD has served as a complement to GATT Uruguay Round work. The OECD has provided an alternative multilateral trade forum to develop support on major Uruguay Round trade issues--particularly the relatively new issues of trade in services, trade-related investment measures and trade-related intellectual property rights. As the Uruguay Round evolved, the OECD has helped provide information on these and other trade and investment issues.

The OECD Trade Committee, Committee on International Investment and Multilateral Enterprises and the Committee on Capital Movements and Invisible Transactions are just a few of the many OECD committees involved in supporting the Uruguay Round.

In the future these OECD activities may be enhanced by the recent institution of informal OECD seminars with newly industrialized economies.

CHAPTER III

FIGHTING TO OPEN FOREIGN MARKETS

SECTION 301

EC Animal Hormones Directive

On January 1, 1989 the EC implemented its hormones directive with respect to third countries, thus effectively banning imports of U.S. meat treated with growth promotents. In response, the President imposed retaliatory tariffs on $96 million of U.S. agricultural imports from the EC. The amount of this retaliation was adjusted downward to reflect an exemption from the EC hormones ban for exports of U.S. meat destined for pet food use.

BILATERAL COUNTRY INITIATIVES

Asia and the Pacific Rim

Japan

Construction: In November 1988 as directed by section 1305 of the Omnibus Trade and Competitiveness Act of 1988, USTR initiated an investigation of Japanese barriers to the provision of U.S. construction, architectural, engineering and related consulting services in Japan. Bilateral consultations will be held following public hearings.

International Value-Added Networks (IVANs): In November 1988 the United States and Japan successfully concluded negotiations on IVANs. Under the agreement U.S. firms can use their proprietary protocols to offer IVAN services in Japan.

Firms using proprietary protocols must include in the operating agreement submitted to the Ministry of Post and Telecommunications (MPT) a statement of intent to have the "technical capability" available to interconnect with other IVANs if requested. However, technical information will not be disclosed to MPT. In addition, the IVAN provider will make all interconnection decisions on a commercial basis. An IVAN provider cannot deny interconnection solely for technical reasons.

Intellectual Property Rights: As a new initiative to address the issue of intellectual property rights protection (patents, copyrights, trademarks and trade secrets), the bilateral working group on Intellectual Property Rights held its first round of talks in August 1988. Another IPR working group session is scheduled for March 1989.

Whaling Sanctions: On December 1, 1988 the U.S. Secretary of Commerce reported to the President on Japanese whaling activities. The Secretary concluded there has been no change in the circumstances which originally led to Japan's certification. The Secretary of Commerce will therefore make further suggestions to the President on actions he may wish to take pursuant to this certification.

Supercomputers: In October 1988 a bilateral review of the 1987 procurement agreement found no U.S. supercomputers had been bought under the agreement. (Two supercomputer sales were made to the Japanese public sector in 1987 under Japan's import promotion program. However, these sales were made outside of the agreement.) To date there are no prospects that U.S. supercomputer companies will be successful in utilizing the agreement to sell to the public sector in Japan, thus questioning it's effectiveness.

Lawyers: As of November 30, 1988 the number of foreign attorneys found qualified and registered in Japan had risen to 46. However, dissatisfaction has continued over the onerous restrictions imposed upon the activity of foreign attorneys in Japan.

Republic of Korea

Motion Pictures: In September 1988 the Motion Pictures Export Association of America (MPEAA) filed a section 301 petition against South Korea's policy of allowing each distributor to submit only one motion picture at a time for review by the censorship committee. This limitation can act as a de facto import quota. In addition, MPEAA complained about the Korean Motion Pictures Association's intimidation activities against foreign motion picture distributors.

In October USTR negotiated a settlement ensuring that South Korea's censorship process will not act as a barrier to trade. The settlement also requires South Korean authorities to aggressively implement laws to prevent intimidating activities, which will help ensure that foreign distributors can freely operate in South Korea.

As a result of this settlement, MPEAA withdrew its section 301 petition. Letters were exchanged in December 1988 effecting the agreement. However, intimidating activities have not altogether ceased. The United States continues to consult with South Korea on the implementation of the agreement.

Taiwan

Beer, Wine and Tobacco: The United States held consultations with the Coordination Council for North American Affairs (CCNAA)

in November 1988 on implementing the 1986 beer, wine and tobacco agreement. Problems relating to product classification, customs and importation procedures and other agreement aspects were discussed in detail. Particular attention was devoted to the agreement's provisions permitting advertising. The two nations also began discussing possible product areas for additional liberalization.

Association of Southeast Asia Nations (ASEAN)

Intellectual Property Rights: Bilateral agreements are expected to be signed with Malaysia and Indonesia during 1989.

Market Access: Thailand announced effective January 1, 1989 tariffs on apples and isolated soy protein will be reduced to levels acceptable to the United States.

India

Motion Pictures: In December 1988 a group of U.S. film companies, the American Film Marketing Association (AFMA), began talks with India to conclude an import agreement.

The Americas

Andean Pact Countries

Investment: Andean Pact member nations have ratified Andean Pact Decision 220 of the Quito Protocol. This protocol permits Andean Pact member nations to liberalize their foreign direct investment rules.

Brazil

Pharmaceuticals: On October 20, 1988 the President announced that he would impose 100 percent ad valorem tariffs, effective October 30, on certain products imported from Brazil valued at $39 million (1985-87 average U.S. import value). Inconclusive consultations were held with Brazil under the GATT dispute settlement procedures. Resolution of the patent problem continues to be an important objective.

Argentina

Pharmaceuticals: Following unsuccessful consultations with Argentina, the Pharmaceutical Manufacturers Association (PMA) filed a section 301 petition in August 1988 complaining about the

lack of adequate and effective protection for U.S. pharmaceutical patents. On September 23, 1988 USTR initiated a formal section 301 investigation of Argentine practices. The United States will continue to pursue this issue with Argentina.

Soybeans: The United States continued to monitor Argentina's commitment to reduce the trade-distortive practices affecting exports of soybeans and soybean products. The section 301 case filed by the Soybeans Processors Association was suspended based upon this monitoring.

Air Couriers: In 1983 the Air Courier Conference of America (ACCA) filed a section 301 petition which USTR formally initiated. After a series of unproductive discussions with Argentina, the United States has considered taking retaliatory action against Argentina.

In response, Argentina has lowered the fee it assesses on international air courier shipments and improved its regulations governing such shipments. However, the United States believes the fee level is too high and that Argentine authorities have repeatedly harassed the lead company in the section 301 case. Consultations on this issue continue.

Caribbean Basin Initiative (CBI)

President Reagan designated Guyana as the newest beneficiary under the CBI as of November 24, 1988. The Guyanese government has launched a national effort to diversify the country's economy and expand nontraditional exports. Guyana hopes to use the CBI to attract greater U.S. investment and to develop closer economic ties with the United States.

Canada

The Free Trade Agreement (FTA) between the United States and Canada took effect on January 1, 1989.

Mexico

Tariffs: In January 1989 Mexico increased to 10 percent most of the tariffs that previously had been zero or 5 percent. Several products of U.S. importance were exempted from this increase. With the exception of these exempted items, all Mexican tariffs now range from 10 to 20 percent. The increase does not affect Mexico's GATT commitment to bind tariffs at 50 percent.

Bilateral Framework Agreement: In 1988 several groups were established under the framework understanding to handle problems

concerning intellectual property, investment, electronics, automotive products, trade data, tourism, motor carrier services and insurance.

Europe and the Mediterranean

U.S.-Israel Free Trade Agreement (FTA)

In November 1988, the United States and Israel concluded agreements to eliminate the discriminatory aspects of Israel's tax and customs practices and procedures.

Egypt

Intellectual Property Rights: Bilateral copyright relations with Egypt were established as a result of U.S. adherence to the Berne Convention. However, the United States remains concerned over the extent Egypt's domestic law meets its obligations under Berne and provides adequate protection to copyrighted material. Egypt is now reviewing its domestic copyright legislation. Bilateral consultations are also underway to address specific U.S. concerns.

Turkey

Intellectual Property Rights

Copyright: U.S. adherence to the Berne Convention established copyright relations with Turkey. Although Turkey has a domestic copyright law, unauthorized copying and sale of U.S.-origin works is widespread. The United States is consulting with Turkey to modify its domestic law to provide adequate protection for U.S. works.

Patents: Turkey's current patent law does not provide protection for human or veterinary drugs or the processes for making them. Nor are biological inventions including plant varieties patentable. Turkey has prepared a draft patent law which includes protection for such pharmaceutical products. The United States is urging Turkey to enact adequate patent protection.

Discriminatory Cola Tax: Several domestic soft drink manufacturers, all of whom have operations in Turkey, are seeking removal of a discriminatory tax on cola soft drinks. The companies contend that Turkey imposes higher taxes on U.S. cola drinks and lower taxes on local beverages, which are produced from local sources. The United States recently learned that the cola tax will be cut in half in the next few weeks, which will meet U.S. cola companies concerns.

Gulf Cooperation Council (GCC)

Intellectual Property Rights

Copyright: Neither the GCC nor its member states (Saudi Arabia, Bahrain, Kuwait, the United Arab Republic, Oman or Qatar) provide adequate protection for copyrighted works. These countries are major consumers of pirated U.S. products. The United States is consulting with the GCC and certain member countries to seek major changes in their laws to provide adequate and effective protection for U.S. copyrighted works.

Patents and Trademarks: GCC countries have different levels of protection for patented and trademarked goods. In consultations with the GCC and with individual countries, the United States seeks to ensure full protection for U.S. goods.

CHAPTER IV

ENFORCEMENT OF U.S. TRADE LAW

OTHER IMPORT ADMINISTRATION LAWS

Generalized System of Preferences (GSP)

The GSP is a program of temporary duty-free tariff preferences granted to developing countries. Currently 136 countries and territories receive GSP treatment on nearly 4,000 tariff categories. Changes in the products and countries eligible for GSP are made through an annual review process. For the 1988-89 annual review, petitions are under review to add 11 products, remove five products and waive statutory competitive need limits on three products.

In addition, the practices of eight beneficiary countries are also being reviewed. Six of these country practice reviews are in response to petitions alleging that Burma, Haiti, Israel, Liberia, Malaysia and Syria do not meet statutory GSP provisions on worker rights. The worker rights practices of the Central African Republic are also being reviewed under a petition continued from the previous year.

Venezuela's eligibility is being reviewed based on charges that it expropriated U.S. corporate property without adequate and effective compensation. Decisions on all these petitions are expected on or about April 1, 1989.

A 1987 country practice petition charging Thailand with inadequately and ineffectively protecting U.S. intellectual property rights was extended until December 1988. The President's decision in this case was announced January 19, 1989. Thailand was found to not fully provide adequate and effective protection for patents and copyrights. Therefore, its GSP benefits were reduced.

Before 1988 watches were excluded from GSP eligibility by law. The Omnibus Trade and Competitiveness Act of 1988 provides that imported watches that the President determines will not cause material injury to the U.S. watch industry can be considered for GSP eligibility. Timex filed a petition requesting such a review. A decision is expected later this year.

National Security Import Restrictions (Section 232)

In late 1988 the U.S. Department of Commerce completed two Section 232 investigations and reported its recommendations to the President. The areas investigated were bearing and oil imports.

Bearings: Deferring action on Commerce's July 1988 report, the President called for supplementary analysis by the Departments of Commerce and Defense of several actions that could improve the industry's defense mobilization requirements. In the follow-up study, Commerce recommended no action be taken to adjust imports for national security reasons. The President concurred and announced his decision November 28, 1988.

Oil: Pursuant to a section 232 investigation on the impact of crude oil and refined petroleum product imports on national security, in December 1988 the Commerce Department recommended to the President that no direct action to adjust oil imports be taken. The President accepted the recommendation. He also urged Congressional action on pending proposals for comprehensive regulatory reform of natural gas and oil exploration on the most promising Federal lands, technical tax code changes affecting the industry, nuclear licensing reform and continued filling of the strategic petroleum reserve.